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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,430	07/31/2001	Kevin H. Hansen	IDF 1660 (4000-04700)	4192
28003	7590	02/10/2005	EXAMINER	
SPRINT 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100			WALSH, JOHN B	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/919,430	Applicant(s) HANSEN ET AL.	
	Examiner John B. Walsh	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 21-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01082002</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 5-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,601,009 to Florschuetz.

As concerns claim 1, a service node for coupling a client (20) to a network (column 1, lines 7-10) having at least one server (column 1, lines 31-32; lines 43-44), said service node comprising: a gateway configured for connection to a network; a switch configured for connection to a client; a data routing system extending from said switch to said gateway, said switch, data routing system and gateway collectively forming a path (Internet inherently comprises a gateway, switch and data routing system), through said service node, configured for coupling said client to said network; a bandwidth measurement device (column 4, lines 1-8, server 1) coupled to said path, said bandwidth measurement device configured for determining upload and/or download data transfer rates between said client and said service node (column 4, lines 1-8).

As concerns claims 2 and 13, wherein said data routing system is comprised of a router (Internet inherently comprises a router) coupled to said switch and said gateway.

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As concerns claims 3 and 14, wherein said bandwidth measurement device is coupled to said gateway (coupled via connections of the Internet).

As concerns claim 5, the service node of claim 3, wherein said client is a PC (column 7, lines 4-5) and said network is the Internet (column 1, line 9).

As concerns claims 6 and 16, wherein said bandwidth measurement device is a server (column 7, lines 24-48, website stored on a server).

As concerns claim 7, the service node of claim 6, wherein a measurement application (software on server for website, column 7, lines 24-25) resides on said bandwidth measurement server, said measurement application determining said upload and/or download data transfer rates for said bandwidth measurement server (column 5, lines 1-10, column 9, lines 27-44).

As concerns claim 8, the service node of claim 7, wherein, if determining said upload data transfer rate between said client and said service node, said measurement application determines said upload data transfer rate based upon an analysis of arriving data packets originating at said client and, if determining said download data transfer rate between said service node and said client, said measurement application generates data packets for transfer to said client (column 5, lines 1-10, column 9, lines 27-44).

As concerns claim 9, the service node of claim 8, wherein said measurement application maintains an applet (column 7, lines 24-36) suitable for download to said client and wherein, if determining said upload data transfer rate between said client and said service node, said downloaded applet generates said data packets originating at said client and, if determining said download data transfer rate between said service node and said client, said downloaded applet

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determines said download data transfer rate based upon an analysis of said data packets generated by said measurement application upon arrival at said client (column 9, lines 27-45).

As concerns claims 10 and 18, wherein a web application (software on server for website; column 7, lines 24-25) resides on said bandwidth measurement server, said client accessing said measurement application via said web application.

As concerns claims 11 and 19, wherein said bandwidth measurement server further comprises a measurement database (figure 3, S30,S31) coupled to said measurement application, said measurement database maintaining data collected during measurement of said upstream and/or downstream data transfer rates.

As concerns claim 12, an intranet for providing on-demand Internet access to subscribers, said intranet comprising: a service node (column 1, lines 6-9); and a plurality of subscriber terminals (column 7, lines 4-9), each one of said plurality of subscriber terminals coupled to said service node by a corresponding xDSL line (column 1, lines 15-18); said service node comprising: a switch coupled to each one of said plurality of xDSL lines; a gateway coupled to the Internet; a data routing system extending from said switch to said gateway, said switch data routing system and gateway collectively forming a path, through said service node, for coupling each one of said plurality of subscriber terminals to the Internet (Internet inherently comprises a gateway, switch and data routing system); and a bandwidth measurement device (column 4, lines 1-8, server 1) coupled to said path, said bandwidth measurement device configured for determining upload and/or download data transfer rates between said service node and requesting ones of said plurality of subscriber terminals which access said bandwidth measurement device (column 4, lines 1-8).

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As concerns claim 15, the intranet of claim 14, wherein said bandwidth measurement device is further coupled to said router and wherein said intranet further comprises a service provider terminal (column 7, lines 4-9, coupled via network) coupled to said router, said service provider terminal accessing said bandwidth measurement device through said router.

As concerns claim 17, the intranet of claim 16, wherein a measurement application (software on server for website, column 7, lines 24-25) resides on said bandwidth measurement server, said measurement application performing said measurements of said upload and/or download data transfer rates for said requesting ones of said plurality of subscriber terminals (column 5, lines 1-10; column 9, lines 27-44).

As concerns claim 20, wherein said measurement database is further coupled to said web application, said service provider terminal accessing said data maintained in said measurement database through said web application (figure 3, S3, S39, S41, S30, S31).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,601,009 to Florschuetz.

Florschuetz '009 does not explicitly disclose an ATM edge switch. However, it is seen as an obvious design choice to select an ATM edge switch, since the applicant has not

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given any particular reason or benefit why the invention will not operate as intended without the ATM edge switch rather than another type of switch.

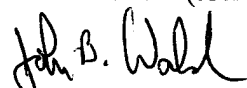
***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 6,788,649 Dugan et al. discloses an ATM edge switch.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Friday from 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John B. Walsh  
Primary Examiner  
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